

the Electronic Clerk's Notes of the hearing show, a copy of which are attached, "Counsel inform the Court that the pending issues are moot." There was no contested hearing on the Status Quo Motion. Converse presented no argument to continue the Status Quo Order. The Court did not "adjudge" whether the Status Quo Order should continue, but stated that it expired of its own terms when the Court returned to the bench on the morning of Tuesday, May 31, 2005. Alon did not prevail and Converse was not defeated. In fact, counsel for Alon tried to request some oral relief, which the Court cut short stating that Alon had no pending request for relief.

The form of the order should not be used by either side to create an advantage in Brazil, which is the obvious purpose of the proposed order as drafted. As the Court stated, and as indicated in the Electronic Clerk's Notes, "Court informs counsel that it will not intervene in the Brazilian Court proceeding."

Since the Court stated it intended to leave the parties to their remedies elsewhere, the order as signed by the court should not create false impressions of victory or defeat for either side, and should be as minimalistic as possible. When counsel for Alon tried to leave on the record the impression or inference that the Court might accept the conclusion that Converse committed some contempt by appealing the order in the Brazilian interpleader court favorable to Alon, the Court rejected the attempt to color the record in any way. Converse asks that the Court take the same approach here. The signed order (if one was even necessary apart from the statement in the Electronic Clerk's Notes that "Court orally vacates Judge Tauro's order.") should only say something like, "The Court hereby vacates Judge Tauro's order of

May 27, 2005.”¹

CONVERSE INC.

By its attorneys,

/s/ Michael C. Gilleran
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DATED: June 3, 2005

Certificate of Service

I hereby certify that I have today served the above motion upon counsel of record for the opposing party by electronic means.

/s/ Michael C. Gilleran

DATED: June 3, 2005

¹ Alon objects in part saying that Converse should have contacted Alon's Florida counsel when it sent yesterday an objection letter to Alon's proposed order. The proposed order was sent to Converse's counsel by Alon's Boston counsel. Converse's counsel repeatedly attempted to communicate, by email and phone, with Alon's Boston counsel, who appeared to be the party handling the proposed order (because Boston counsel sent the order to Converse's counsel and expressly stated in his cover letter, "Please provide me with any comments."). Converse notes that none of Alon's Florida counsel, admitted pro hac vice in this matter without objection, have not taken advantage of the opportunity to receive electronic service of electronically filed documents in this case.)

Gillera, Michael

From: ECFnotice@mad.uscourts.gov
Sent: Wednesday, June 01, 2005 2:19 PM
To: CourtCopy@mad.uscourts.gov
Subject: Activity in Case 1:04-cv-12591-PBS Converse, Inc. v. Alon International S.A. "Motion Hearing"

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United States District Court

District of Massachusetts

Notice of Electronic Filing

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Case Name: Converse, Inc. v. Alon International S.A.

Case Number: 1:04-cv-12591 <https://ecf.mad.uscourts.gov/cgi-bin/DktRpt.pl?95523>

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Docket Text:

Electronic Clerk's Notes for proceedings held before Judge Patti B. Saris: Motion Hearing held on 6/1/2005 re [29] MOTION for Preliminary Injunction filed by Converse, Inc., [30] MOTION to Enforce <I>Interim Final Arbitration Order Pending Appointment and Decision by New Arbitrator </I> filed by Converse, Inc., [34] MOTION for Preliminary Injunction filed by Converse, Inc. Counsel inform the Court that the pending issues are moot. Court informs counsel that it will not intervene in the Brazilian Court proceeding. Court orally vacates Judge Tauro's Order. Counsel to submit proposed order. (Court Reporter Valerie O'Hara.) (Alba, Robert)

The following document(s) are associated with this transaction:

<!-- rcsid='\"\$Header: /ecf/district/server/TextAtyList,v 3.2 2003-06-02 17:37:56-04 bibeau Exp \"\$' -->
1:04-cv-12591 Notice will be electronically mailed to:

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1:04-cv-12591 Notice will not be electronically mailed to:

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